

Lowell Zoning Board of Appeals Minutes

November 8, 2021 6:30 P.M.

Note: These minutes are not completed verbatim. For further detail, contact the Division of Development Services, 375 Merrimack Street, Lowell, MA or refer to video recordings available online at www.LTC.org.

Members Present: Chairman Perrin, Member Pech, Member Callahan, Member McCarthy, Member Briere, Member Procope

Members Absent: Member Njoroge

Others Present: Peter Cutrumbes, Assistant Planner

The following represents the actions taken by the Zoning Board of Appeals at the 11/8/2021 meeting. This meeting was held in the City Council chambers. However, due to the COVID-19 pandemic, attendees had the ability to participate via Zoom as permitted by the Governor's 3/10/2020 emergency order to suspend certain provisions of the Open Meeting Law.

Chairman Perrin called the meeting to order at 6:30 PM

I. Continued Business

ZBA-2021-33

Petition Type: **Variances**

Applicant: **Chloe LLC**

Property Located at: **157 Billerica Street**

Applicable Zoning Bylaws: **Section 5.1 and Article XII**

Petition: **Mr. John Faneros has applied to the Lowell Zoning Board of Appeals to add two additional housing units to an existing single family home at 157 Billerica Street. The property is located in the Suburban Multi Family (SMF) zoning district, and requires one Special Permit under Article 12, one variance for front yard setback under Section 5.1, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf: Ken Lania, Engineer for the project, described the project and expressed that the applicant has no objection to DPD comments.

In Favor: None

In Opposition: None

Discussion: V. Pech said he is in favor, and thinks that the project is fitting for the neighborhood. S. Callahan asked if they will plant the previously agreed upon trees on the property, to which K. Lania agreed. S. Callahan also asked if the previous elevations will be essentially the same, and K. Lania concurred. S. Callahan asked to make DPD approval of elevations a condition. D. McCarthy expressed concerns about the application, as the Site Plan was missing information on the grade for

stairs/walkways. D. McCarthy asked to add these as a condition. M. Briere expressed approval. G. Perrin also asked about an updated site plan and expressed approval.

Motion: S. Callahan motioned to APPROVE WITH CONDITIONS the Special Permit request, which was seconded by V. Pech. The conditions were as follows:

- Applicant to provide updated site plan indicating landscaping features, including trees to be planted on the front of the property, and the grade of all stairs and walkways
- Applicant will provide updated floor plans and elevations to DPD

The vote was unanimous (5-0).

S. Callahan motioned to APPROVE WITH CONDITIONS the Variance request, which was seconded by V. Pech. The vote was unanimous (5-0).

ZBA-2021-34

Petition Type: **Variance**

Applicant: **Julio Cortez**

Property Located at: **242 Lakeview Ave, 01850**

Applicable Zoning Bylaws: **Section 5.1 and Section 5.3**

Petition: **Julio Cortez has applied to the Lowell Zoning Board of Appeals for Variance approval to demolish the vacant single family home on the property, and construct a two-family home. The property is located in the Traditional Multi Family (TMF) zoning district and requires Variance approval under Section 5.1 for relief from the front yard setback, side yard setback, minimum lot area, and minimum lot area per dwelling unit requirements, and Variance approval under Section 5.3 for relief from the landscaped open space requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf: None

In Favor: None

In Opposition: None

Discussion: The applicant requested a continuance to the December 13 meeting.

Motion: Motion to continue to the 12/13/2021 meeting by S. Callahan, seconded by D. McCarthy. The vote was unanimous (5-0).

ZBA-2021-28

Petition Type: **Special Permit**

Applicant: **New England Masonry and Landscaping**

Property Located at: **282 Lincoln Street, 01852**

Applicable Zoning Bylaws: **Article XII**

Petition: **New England Masonry and Landscaping has applied to the Lowell Zoning Board of Appeals for Special Permit approval to establish a loam-screening operation that will bring in outside loam to be processed on site at 282 Lincoln Street. The property is located in the Light Industrial (LI) zoning district and requires a Special Permit per Article 12 for use, and for any other relief required of the Lowell Zoning Ordinance.**

On Behalf: John Geary, counsel to the applicant. J. Geary introduced the application. Andrew Pojacek (The Engineer for the project, from Dana Perkins Engineering) and Jim McClutchy (Property Manager) were also on the Zoom call. J. Geary briefly discussed confusion around the location of this project by residents of the neighborhood at the September 27th meeting. Following that meeting, J. Geary said the applicant met with the residents of the neighborhood and agreed to move the operation further back. The applicant has also set up an entrance/exit to the site on Tanner Street, away from the residential parts of the neighborhood.

In Favor: None

In Opposition: Joseph Delgrosso, 1 Autumn Street, spoke about the history of the site and specifically the SILRESIM chemical dumping. He expressed significant opposition to the project, the noise it will cause, and potential health issues caused by vehicles kicking up contaminated dust. Bill Schaefer (1 Waldo Street) asked J. Geary where the access road will come out. J. Geary answered by Scannell Iron Works.

Discussion: D. McCarthy expressed satisfaction with the Site Plan. D. McCarthy asked if the hours can be set to 7:30am-6pm. J. Geary said they should have been, and if not indicated in the application, it was an oversight on his part. D. McCarthy asked if the concrete storage bins on the southern border will be removed and if New England Masonry is operating there currently. J. Geary confirmed that the applicant is expanding his existing landscaping company to also do loam screening. D. McCarthy asked about what kind of vehicles will be using the Tanner Street access way, particularly their size. J. Geary deferred to the applicant, Sebastian Silva, who answered that there will be two 10-wheelers accessing the site. S. Silva said the 10-wheelers will be from the loam business and accessing via Tanner Street. D. McCarthy proposed a condition that only the one-ton vehicles will use the Canada Street gate. D. McCarthy asked if stone will be processed on site, and S. Silva said no. D. McCarthy also asked about a 1-year administrative review period for this application. M. Briere said he is sympathetic to the residents, but that the applicant has taken all necessary precautions. He did not see a pathway to deny. S. Callahan expressed agreement, that the application may be contentious for the neighborhood, but that it complies with the zoning ordinance as written. S. Callahan agreed, and asked if the days of operation would be Monday-Saturday and hours of 7:30-6. G. Procope and V. Pech both expressed similar concerns as S. Callahan and M. Briere. G. Perrin requested an 8 month admin review, as that way review will take place during the loam screening season.

Motion: A motion to APPROVE WITH CONDITIONS the Special Permit request was made by S. Callahan and seconded by M. Briere. The conditions were as follows:

- The hours of operation for the business shall be 7:30am-6 PM
- There shall be an administrative review of the operation after 8 months
- All vehicles in excess of one (1) ton of weight shall access the property through Tanner Street
- Stone crushing shall not occur on site
- No snow shall be stored on site

The motion was APPROVED (4-1), with G. Perrin voting to deny.

II. New Business

ZBA-2021-49

Petition Type: **Variance**

Applicant: **The Boys and Girls Club of Greater Lowell**

Property Located at: **647-679 Middlesex Street, 01851**

Applicable Zoning Bylaws: **Section 6.1**

Petition: The Boys and Girls Club of Greater Lowell has applied to the Lowell Zoning Board of Appeals to renovate and construct an addition on the existing Boys and Girls Club facility. The application requires Site Plan Review under Section 11.4 for an addition that is greater than 10,000 sq. ft. The application also requires Variance approval under Section 6.1 for relief from the off-street parking requirement and for any other relief required under the Lowell Zoning Ordinance.

On Behalf: Joe Hungler, Executive Director of the Boys and Girls Club, explained why the project is being undertaken and gave a brief summary of the application. Appearing alongside him was the developer, Rick Feldman of Feldman & Sons Project Management. Patrick Tighe (Architect) also introduced himself and discussed architectural features of the project.

In Favor: None

In Opposition: None

Discussion: G. Perrin said his family attended the B&G club and that he supports the application. V. Pech shared an anecdote from his times at the B&G club and expressed support. M. Briere and D. McCarthy both articulated strong support. S. Callahan concurred, and asked about screening the parking from Clemente Park. P. Tighe said they would screen but didn't want to create an opaque wall, which may increase illegal activity in the park. S. Callahan also asked for the dimensions of the existing parking spaces.

Motion: S. Callahan motioned to approve the Variance, seconded by D. McCarthy. The motion was approved unanimously (5-0).

ZBA-2021-50

Petition Type: **Variance**

Applicant: **Coljack Development Corp.**

Property Located at: **13 Irving Street/46 Pine Hill Avenue, 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: Coljack Development Corp. has applied to the Lowell Zoning Board of Appeals for Site Plan Review, Special Permit, and Variance approval to develop the vacant site at 13 Irving Street/46 Pine Hill Avenue into two duplexes. The property is in the TMF zoning district and requires Site Plan Review from the Planning Board under Section 11.4.2 and Special Permit approval under Article 12 to have four or more residences on one lot. The proposal also requires Variance approval under Section 5.1 from the Zoning Board of Appeals for lot area per dwelling unit, maximum front yard setback, maximum building stories and for any other relief required under the Lowell Zoning Ordinance.

On Behalf: Atty. George Theodorou and Engineer Matt Hamor spoke on behalf of the applicant. G. Theodorou introduced the project and summarized the presentation to the Planning Board. G.

Theodorou summarized the paving issues for the street, emphasizing that the pavement intrudes on the lot line. G. Theodorou said they do not plan on using it and will provide an easement to the City and include language in the HOA agreement that nothing can block this easement. M. Hamor summarized the Site Plan, including issues with grade.

In Favor: None

In Opposition: None

Discussion: S. Callahan asked about the screening of the neighbors parking area on Gorman Street, to which G. Theodorou was agreeable. V. Pech expressed support. D. McCarthy asked about the building height and including a “height of less than 35 feet” for a condition. D. McCarthy also asked about the lighting plan, on which M. Hamor elaborated. M. Briere and G. Perrin both expressed support.

Motion: S. Callahan motioned to APPROVE WITH CONDITIONS the Variance Request, with V. Pech seconding. The conditions were as follows:

1. The applicant shall provide a landscaping plan (including information regarding snow storage) and a lighting plan for DPD approval.
2. The applicant shall obtain a Stormwater Permit from the LRWWU.
3. The applicant shall enter into an agreement and easement with the LRWWU to connect to the sewer line at Gorham Street.
4. The applicant shall add a minimum of one window on side of building as requested.
5. The applicant shall work with DPD to determine whether the usable open space meets the requirement that it does not exceed a grade of 8%.
6. The applicant shall remove the third bedroom on floor plans and mark it as loft storage space.
7. The applicant shall grant an easement to the owner of 61 Gorman Street to allow them to continue parking on their driveway.
8. The applicant shall grant an easement for the paved area in front of the houses on Irving Street.
9. The building height shall not exceed 35 feet.

The vote was unanimous (5-0).

ZBA-2021-48

Petition Type: **Variance**

Applicant: **Linda Thay**

Property Located at: **46 Wood Street, 01851**

Applicable Zoning Bylaws: **Section 6.3**

Petition: Linda Thay seeking Variance approval at 46 Wood Street. The applicant proposes to demolish the existing single-family home and construct a 1,600 square foot commercial structure with a rear parking area. The subject property is located in the Regional Retail (RR) zoning district. The application requires Variance approval per Section 6.1.10 for relief from the minimum driveway width requirement, and any other relief required under the Lowell Zoning Ordinance. This applicant is requesting a continuance to the November 22nd meeting.

On Behalf: None

In Favor: None

In Opposition: None

Discussion: None

Motion: Motion to continue to the 11/22/2021 meeting by S. Callahan, seconded by G. Perrin. The vote was unanimous (5-0).

I. Other Business

Minor Modification Request: 74-76 Beaulieu Street, 01850

The applicant is seeking the removal of a condition placed on the property's Special Permit for Use in 2004. This Special Permit allowed the property to be used as a 3-family building if it remained owner-occupied. The applicant has recently purchased the building and is asking for this condition to be waived.

On Behalf: David Plunkett, applicant's attorney, explained the situation at the property. He also expressed his belief that the "owner occupied" condition may not be legal under zoning.

Discussion: None

Motion: G. Perrin concurred, and moved to continue the application to 12/13 and issue a question for legal review. The City of Lowell Law Department will issue an opinion on the legality of the "owner occupied" condition, and if it can be waived. M Briere seconded the motion. The vote was unanimous (5-0).

Extension Request: 90 Lupine Road

The applicant is seeking a one-year extension to variances for minimum lot area, minimum frontage, and maximum FAR originally granted on October 17, 2019 and extended on November 9, 2020.

On Behalf: None

Discussion: All members expressed no concerns about the application.

Motion: A motion to approve the extension was put forward by S. Callahan and seconded by D. McCarthy. It was approved unanimously (5-0).

Election of Zoning Board of Appeals Officers

The Board moved the election of officers to December 13, 2021.

Minutes for Approval:

Motion to approve the October 25, 2021 meeting minutes by S. Callahan and seconded by V. Pech. The vote was unanimous (5-0).

Per Order of the City of Lowell Zoning Board of Appeals – Gary Perrin, Chairman

New business to be advertised by October 23, 2021 and October 30, 2021.